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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,439	01/08/2002	Michael Joseph Calderaro	AUS920010788US1	4640

40412 7590 08/21/2007

IBM CORPORATION- AUSTIN (JVL)
C/O VAN LEEUWEN & VAN LEEUWEN
PO BOX 90609
AUSTIN, TX 78709-0609

EXAMINER	
NEWTON, JARED W	
ART UNIT	**PAPER NUMBER**
3692	

MAIL DATE	DELIVERY MODE
08/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/042,439	CALDERARO ET AL.	
	Examiner	Art Unit	
	Jared W. Newton	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 May 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-8,11-14 and 17-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 4-8, 11-14, 17-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This final rejection is in reply to the remarks filed May 27, 2007, by which claims 1, 4-6, 8, 11, 12, 14, and 17-20 were amended, and claims 2, 3, 9, 10, 15, and 16 were cancelled.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Roman, *Impact of an Early Retirement Program: A Case Analysis of a Community College*, 1999 (hereafter Roman).

In regard to claim 1, Roman discloses a study of analyzing the costs and savings of implementing an early retirement incentive program (ERIP) (see page 81, line 21) comprising: identifying a data record of a plurality of employees (see page 82, lines 1-12); retrieving a compensation amount corresponding to each data record (see id.); calculating a total savings amount by summing the compensation amounts (see Table 1, page 83; see also page 85, lines 1-4); identifying a severance pay formula corresponding to each data record (see page 83, lines 3-11); determining a severance amount by applying the pay formula to each data record, and summing these amounts to calculate a total severance cost (see Table 1, page 83); comparing the total

severance cost to a budgeted severance cost, and re-determining the total severance cost. The budgeted cost is the "Premium Costs" shown in the Net Present Value determination (see Table 1, page 83). Under the "Financial Impact of ERIP" the budgeted cost is compared to the actual cost of implementing the program, and it is determined that the costs of the program cannot be justified (see page 138, lines 7-20)—the program is not-implemented, and the costs are re-determined to be zero.

In regard to claim 4, Roman further discloses comparing the data records to additional compensation guidelines set forth in § 3307.35 of the Ohio State Code (see Appendix E), as well as in a collective bargaining agreement (see Appendix G), and using said guidelines to determine the severance pay amounts (see page 86, line 13 – page 87, line 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roman, alone.

In regard to claims 1 and 4, the Examiner takes the primary position that the Roman study anticipates the claims as set forth immediately above. The Examiner takes the alternative position that the claims are unpatentable over the Roman study, in

further view of prior art noted in the "Related Literature" portion of the Roman reference (see page 22). As set forth above, the cost of implementing the ERIP of the Roman study was determined to be unjustifiable, the program was not implemented, and thus the re-determined cost of the program was zero. In the "Related Literature" portion of the Roman reference, a report by the Mentor Exempted Village School District (hereafter Mentor report) discloses a cost/savings evaluation of various incentive plans, wherein scenarios were calculated beginning at a purchase of one year of additional employee service, and reevaluating at intervals of purchasing one additional year of additional employee service, up to five years (see page 46, line 9 – page 47, line 20). From the various scenarios, the Mentor report determined which incentive plan was most appropriate (id).

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the multiple incentive plan reevaluations disclosed by the Mentor report to the method of analyzing the costs and savings of an early retirement incentive program as disclosed in the Roman study. Roman discloses a method of analyzing the financial ramifications of implementing a program, but only analyzes the program with one set of variables before deciding it should not be adopted. In contrast, the Mentor report adjusts variables that alter the formula that determines the costs and savings associated with a particular severance plan, and the time until the program financially breaks even (see page 47). It follows that it would have been obvious to adjust the variables affecting the plan disclosed by Roman, to produce multiple possible outcomes from which an organization may select the most financially beneficial. Alternatively,

even if an organization ultimately decided none of the scenarios was worthwhile, the motivation for producing various outcomes would be to allow for a better-informed decision.

In regard to claims 5 and 7, the steps disclosed are obvious in view of the teachings of Roman. The steps of claim 7 are an alternative formula for arriving at the savings amount of claim 1, which is taught by Roman as set forth above. Likewise, the steps of claim 5 are an alternative means of reaching the severance cost of claim 1, which is taught by Roman as set forth above. Using a different formula to arrive and a known value does not hold patentable weight unless the new formula includes an unexpected result.

In regard to claim 6, the Mentor study discloses the amount of eligible employees as one of the variables that determines the cost and savings of the various incentive plan scenarios (see page 47, lines 3-5).

Claims 8, 11-14, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roman as applied to claims 1 and 4-7, and further in view of US Patent App. Pub. No. 2004/0162771 to Tamatsu et al. (hereafter Tamatsu).

In regard to claims 8 and 11-13, Roman does not disclose: one or more processors; a memory accessible by the processors; one or more nonvolatile storage devices accessible by the processors; and a financial impact analysis tool.

In regard to claims 14 and 17-20, Roman does not disclose: a computer program product stored in a computer operable media.

Tamatsu discloses a method and system for evaluating individuals and groups within an organization comprising: a personal computer having a central processing unit, a server, an operating system, application programs, communication mechanisms, a means of computation, a database control mechanism, and a database (see FIG. 1). The Roman and Tamatsu references are analogous art because they are from the same field of endeavor—financial evaluation of organizations. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the computer hardware and software taught by Tamatsu, to implement the system and methods of evaluating the financial costs and benefits related to a severance program as taught by Roman. At the time of the invention, using a computer to process large amounts of information (e.g. employee data) as disclosed by Tamatsu was a well-known and successful means of more efficiently calculating the equations and formulas applied to the information. The motivation for using a computer to process such information would be to process more information in a shorter period of time, while avoiding human error.

Response to Arguments

Applicant is thanked for the review requested under 37 C.F.R. § 1.105.

The Specification Objection noted in the Office Action mailed March 12, 2007 is hereby withdrawn in view of the Applicant's checking of the Specification.

In view of the Amendments filed May 27, 2007, the Claim Rejections under 35 U.S.C. § 112 set forth in the Office Action mailed March 12, 2007 are hereby withdrawn.

Applicant's arguments with respect to the prior art rejection of claims 1, 4-8, 11-13, and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Koeppen, et al. "Are Early Retirement Plans Cost Effective?" Management Account, April 1990.
- Beigbeder, "Easing Workforce Reduction." Risk Management, May 2000 Vol. 47, Iss. 5.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JWN
August 8, 2007

KAMBIZ ABDI
PRIMARY EXAMINER